

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED

MAY - 4 2005

AT _____ O'CLOCK _____ M
LAWRENCE K. BAERMAN, Clerk
UTICA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

vs

1:04-CV-956

LINC HARRIS,

Defendant.

APPEARANCES:

OF COUNSEL:

LINC HARRIS
Petitioner, Pro Se
11871-052
FCI Fort Dix
P.O. Box 7000
Fort Dix, NJ 08640

HON. GLENN T. SUDDABY
United States Attorney
Attorney for Government
Northern District of New York
P. O. Box 7198
100 South Clinton Street
Syracuse, New York 13261-5165

RICHARD S. HARTUNIAN, ESQ.
Assistant U.S. Attorney

DAVID N. HURD
United States District Judge

ORDER

Petitioner has filed a motion for reconsideration (Docket No. 10) of the order filed February 10, 2005. (Docket No. 9). The Government responded. (Docket No. 12). The petitioner replied. (Docket NO. 13).

Upon reconsideration, the original holding that the Booker/Fanfan decision is not retroactive to the case on collateral review is still valid.

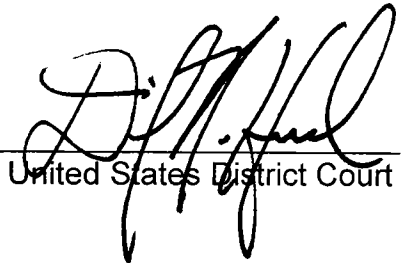
Therefore it is

ORDERED, that

1. The request for reconsideration is GRANTED; and
2. The petitioner's motion is again DISMISSED.

The Clerk is directed to close the file.

IT IS SO ORDERED.



United States District Court

Dated: May 3, 2005
Utica, New York.